MINUTES OF ORAL EVIDENCE

taken before the

HIGH SPEED RAIL BILL COMMITTEE

on the

HIGH SPEED RAIL (WEST MIDLANDS – CREWE) BILL

Wednesday 11 July 2018 (Morning)

In Committee Room 5

PRESENT:

James Duddridge (Chair)
Sandy Martin
Mrs Sheryll Murray
Martin Whitfield
Bill Wiggin

IN ATTENDANCE:

Timothy Mould QC, Lead Counsel, Department for Transport
Richard Walton, Petitioner Representative (The Woodland Trust)
Peter Lewis, Petitioner Representative (J&B Berrisford)

IN PUBLIC SESSION

WITNESSES:

Luci Ryan (The Woodland Trust)
Philip Berrisford (J&B Berrisford)
### INDEX

<table>
<thead>
<tr>
<th>Subject</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alice, Angela, William, Emily and Lucy Witter</td>
<td>3</td>
</tr>
<tr>
<td>Statement by Mr Mould</td>
<td>3</td>
</tr>
<tr>
<td><strong>The Woodland Trust</strong></td>
<td>4</td>
</tr>
<tr>
<td>Evidence of Ms Ryan</td>
<td>5</td>
</tr>
<tr>
<td>Response by Mr Mould</td>
<td>11</td>
</tr>
<tr>
<td><strong>J&amp;B Berrisford</strong></td>
<td>20</td>
</tr>
<tr>
<td>Submissions by Mr Lewis</td>
<td>20</td>
</tr>
<tr>
<td>Response by Mr Mould</td>
<td>27</td>
</tr>
</tbody>
</table>
At 9.35 a.m.

1. THE CHAIR: Mr Mould?

Alice, Angela, William, Emily and Lucy Witter

Statement by Mr Mould

2. MR MOULD QC (DfT): Thank you. I would just draw the Committee’s attention to the first named petitioners on your programme today; that is to say, the Witters. As a result of negotiations that have been going on between the promoter and those petitioners they are not appearing before you today. But I have been asked to read out a very brief statement, which is as follows, ‘On 10 July the promoter issued a draft agreement to the Witters, which largely addresses the concerns set out in the Witter’s petition. Owing to this the Witters will not be appearing before you today. Broadly, the agreement describes how the Witters will grant HS2 a private right to construct an access road across their land. It sets out, amongst other things, how the parties will engage, how the access road will be approved and it also confirms that the promoter will not seek the adoption of the access road.

3. ‘The promoter still needs to provide the Witters with certain technical information and will endeavour to do so this week. Likewise, the promoter will seek to conclude negotiations with the Witters in respect of this agreement as soon as possible. Going forward it is likely that the Witters’ land will be affected by AP2. The promoter will engage meaningfully with the Witters from the outset in respect of that additional provision. And, of course, if they are affected by AP2, the Witters will be able to petition against it.’ That is the statement.

4. THE CHAIR: Thank you Mr Mould. Let’s hear from -

5. MR WIGGIN: Sorry.


7. MR WIGGIN: I read the file this morning. I didn’t really understand why there wasn’t engagement earlier with the Witters.

8. MR MOULD QC (DfT): I think that there has been engagement but the progress
of the negotiations towards a solution has taken rather longer than perhaps the parties expected.

9. MR WIGGIN: Were there technical issues or something?

10. MR MOULD QC (DfT): There have been some technical issues, yes. I mean there’s a reference in the statement to the specification as you’ve seen. But I think the upshot is that, as the statement indicates, that the parties are very close indeed now to reaching agreement. So for that reason they’re content to let that process move swiftly to an overall conclusion.

The Woodland Trust

11. THE CHAIR: Thank you. Let’s move to the next petitioner, the Woodland Trust. Thank you very much for the clarity of the letter you sent. That’s very useful. There is one item on there that I’d ask you not to go back on. That’s on the issue of the tunnel, which we considered and we won’t consider again. But over to you, Mr Walton.

12. MR WALTON: Thank you for that. You have our one-page letter. Do you also have our updated appendix? The schedule setting out the assurances that we have asked for? So that’s it on the screen. If there are hard copies flying around I’ve marked up the bits that are still outstanding in blue.

13. THE CHAIR: How many pages are there to this?

14. MR WALTON: There are, they go through to WT21.

15. THE CHAIR: It’s all right; I’ve now got a hard copy as well. Sorry. I was just looking at something that said ‘agreed’ all down the right hand side.

16. MR WALTON: It did. It’s a good start on page 1 but if you turn through it you will see in the right hand side some ‘not agreed’ and some ‘no matters’. Some issues are no longer an issue but it’s the ‘not agreed’ points that Ms Ryan is going to address you on. We’ve been told we have 15 minutes or so and we can deal with that no problem at all.

17. THE CHAIR: Okay, off you go.
Evidence of Ms Ryan

18. MS RYAN: Okay. Good morning. Thank you for seeing me again. So I’m going to follow the structure of the letter that we sent through yesterday. So number 1 on the list was we’d requested a protocol for managing breaches of assurance because of an incident that we had happen on Phase One where some of our assurances were breached and what subsequently then happened. I understand this morning that Mr Mould’s going to make a statement on that issue. I don’t know whether that happens now or whether you’ll be doing that later.

19. THE CHAIR: I’m happy for you to do that now or later, Mr Mould, whatever you choose.

20. MR MOULD QC (DfT): Yes, I can certainly deal with that now. It might be helpful to have in front of you A310 at page 19. Then we can just look at paragraph 10.1.7, A301(19). Ah, in your hard packs if you could find divider 3 you’ll find A310(19) is within that divider.

21. MR WIGGIN: A310?

22. MR MOULD QC (DfT): Yes, 19.

23. MR WIGGIN: Okay, I’ve got it.


25. THE CHAIR: We’re putting it up on the screen as well aren’t we?

26. MR MOULD QC (DfT): Apparently the system is not producing.

27. MR WIGGIN: ‘As a result of the trust’s experience of what happens in reality when an assurance is breached, we’re keen to ensure the process is refined and improved.’ Shall I go on?

28. MR MOULD QC (DfT): Yes. What that paragraph indicates is a direction. They require a direction for the promoter to publish a clear step-by-step process of breaches of assurances will be reported and then what steps will be undertaken to resolve them. There is an obvious case for a document to be published that fulfils that requirement. I
can confirm that that is something that will be prepared. The intention is insofar as this Bill is concerned that that document should be finalised in time to be published in its final form when the register is finalised at Royal Assent. What I will do is I will ask that a draft of that document is prepared so that you’re able to see it before you conclude your business in the new year. So that you can see before you complete your work the direction of travel in relation to that.

29. THE CHAIR: The Woodland Trust are nodding so given they’ve got assent and we’ve got it in the bag, let’s move on to the next issue.

30. MR MOULD QC (DfT): Thank you.

31. MS RYAN: Okay, so the next issue is around tree procurement. At present, and this relates to, on the assurances on the screen, this relates to WT6.

32. MR WIGGIN: Can I ask you what the distance is for five degrees longitude in miles? Sorry, latitude?

33. MS RYAN: Well, it’s from wherever they are planting the trees, so 0-5 degrees latitude on High Speed Two means that they’ll be able to source seed from the Continent, which we don’t think is appropriate because as an organisation who plants millions of trees every year, this year alone we procured 2.9 million trees. So it’s not like we just procure a few. We do this in quantity.

34. MR WIGGIN: No, that’s fine. I wondered what the distance was.

35. MS RYAN: Yes.

36. THE CHAIR: I’m going to ask Mr Mould to leap in.

37. MR MOULD QC (DfT): I was just going to say in geographical terms it means that we are able to source trees from within France.

38. MS RYAN: As an organisation we don’t. All our trees are UK sourced and grown. We believe since we’re able to procure UK sourced and grown trees –

39. MR WIGGIN: Is there any specific species that you cannot get within the UK?

40. MS RYAN: No.
41. MR WIGGIN: And is there any particular species that is considerably cheaper in France than it is here? Or is it just convenient?

42. MR MOULD QC (DfT): No, it’s not convenient. It’s that there’s a concern that the quantity and range of species that this project will need to secure, to source, in order to fulfil the very challenging commitments that have been given about tree planting, it is necessary to be able to source from an appropriate foreign location which fulfils the same climate conditions without –

43. THE CHAIR: Let’s move on. I think we’re wholly unconvinced by that argument just looking around. Is there any more evidence for us to…? No? Let’s move on.

44. MR MOULD QC (DfT): Well there is one thing I can tell you: that it is completely consistent with the published guidance of the Forestry Commission, our approach.

45. THE CHAIR: Well, we’ll look at all of that but we’re unconvinced at the moment. Next issue.

46. MR WHITFIELD: Could I just, for the purposes of clarity declare an interest that I have a substantial tree producer in my constituency. So I’m declaring that interest and I’m not going to take part in this bit of the discussion.

47. THE CHAIR: Fine, translocation? Thank you.

48. MS RYAN: Thank you. So translocation, this doesn’t actually relate to an assurance because this is not about the issue of translocation. We’ve had assurances about that which we’ve agreed. This is to do with an issue that’s arisen again, a biosecurity issue actually that’s arisen in the last six weeks or so. High Speed Two has given a commitment to translocate around 30 hectares of soil from ancient woodlands that have been removed as part of Phase One and will be doing the same on Phase 2A and then I assume on 2B. What’s happened is, we were made aware about six weeks ago that a consultant or contractor of High Speed Two contacted the Forestry Commission about some translocations that are due to start taking place in September to ask about the issue of the movement of viable ash material. Because there’s a plant
health order that came out in 2012, so prior to the publication of the draft EIA on Phase One that restricts the movement of ash material to stop the spread of ash dieback. You’d be very hard pressed to find an ancient woodland in this area that does not contain viable ash seed in the soil.

49. So what had happened was, from the emails I’ve seen, the Forestry Commission and come back and said, ‘No, you can’t move the soil. If it contains viable ash seed it can’t be moved. It will fall foul of the plant health order.’ This obviously is a huge issue because there’s two issues that the trust has got. Number 1 is, if they can’t do the translocations that were promised under a hybrid Bill the trust doesn’t understand what happens. What’s the process if you’ve committed to something within a hybrid Bill and then you can’t do it? So that’s just a question for the Committee, if that could be explained to us at some point. Also then what is the contingency plan that High Speed Two has if they can’t do these translocations? What will the compensation package look like? But also because I know, because I’ve repeatedly asked over the last six weeks what’s happening, I know High Speed Two have got a meeting with the Forestry Commission tomorrow to discuss this, which is why I’m raising it here because we don’t know what is going to happen. I’ve had some contact with High Speed Two where they say that the Forestry Commission potentially will look at issuing licences for them to be able to move this soil but this is all a bit up in the air at the moment so I needed to raise it. There’s a bit of confusion so we haven’t asked for an assurance on it because it’s potentially resolvable but it is an issue you need to be aware of.

50. THE CHAIR: You are right to raise it and we will consider it.

51. MS RYAN: Yes, is that okay?

52. THE CHAIR: Shall we move to temporary works?

53. MS RYAN: Yes, sure, so temporary works. These do relate to assurances. So these relate to assurances WT14, WT15 and WT17. So we have two ancient woodlands potentially affected by temporary works and we have at least nine ancient and veteran trees that are going to be removed as a result of temporary works. On Phase One, High Speed Two agreed that no irreplaceable habitat would be removed due to temporary works. We didn’t have an assurance on it because it was sorted out before Committee and we didn’t ask for an assurance. So we didn’t think we needed to ask for an
assurance on it again because we assumed it would roll on up the line. But it hasn’t unfortunately.

54. The Woodland Trust is of the opinion that no irreplaceable habitat including individual trees should be removed for temporary works. If I can give you some examples? We’ve got black poplar which High Speed Two itself describes as the UK’s most endangered native tree, being removed to a satellite compound at Blithbury. We’ve got a veteran ash, already under threat from ash dieback, being lost to a bridal way diversion and a veteran oak being lost to a temporary roundabout on the A53. We’ve also got Whitmore Wood; the compound at Whitmore Wood appears to be taking some of the ancient woodland. And whilst we accept what you’ve said about the six hectares being lost to permanent works, it seems wholly inappropriate to then remove further ancient woodland and not move the compound away from where it is if it’s temporary. I realise temporary in terms of Whitmore is actually about five years; I think the compound is going to be here. We’ve asked them to agree to avoid all nine trees that have been listed but they’ve not been able to satisfy.

55. THE CHAIR: Well, just to give HS2 notice, perhaps when you come to look at this at end we can get a map up to understand the issue.

56. MR WIGGIN: Is it not the case that some of these proposals are proposals and therefore may not happen?

57. MS RYAN: Yes, I fully accept that Mr Wiggin.

58. MR WIGGIN: And all you’re doing is flagging that up?

59. MS RYAN: I do, but I think the thing is we want surety. The assurances that we were offered late yesterday go a step further than what we’ve been offered before but we want some surety particularly around the individual trees.

60. THE CHAIR: We understand what you want. We’ll look into it. Let’s move to compensation.

61. MS RYAN: Okay, sure. This is number 6; this relates to WT12. It’s the Woodland Trust’s contention that compensation provided for loss of irreplaceable habitat should be commensurate with the loss incurred. We don’t consider that the
amount of compensation that’s being offered is commensurate with the loss of 10.2 hectares of irreplaceable habitat. We also contend that because all the woods that are affected have been affected since the publication of the draft environmental impact assessment, seven of those woods at the time the line was proposed, were not on the ancient woodlands inventory but they’ve subsequently been added. When they’ve been subsequently added, nothing has changed on the route to take into account that these woods have now been identified as ancient woodlands. So the impacts on them are the same.

62. So you’ve got the Grove; 1.3 hectares is going. It was going before they knew it was an ancient woodland. They found out it was an ancient woodland and nothing’s been changed. Clifford’s Wood is the same, 1.3 hectares lost. Birch Wood, the whole lot of it is going and that’s an ancient woodland. So we feel there could have been avoidance. What High Speed Two are offering in terms of compensation we’re pleased to see because we have a huge issue, which has now been resolved about the figures that High Speed Two have published we don’t consider to be accurate. High Speed Two agreed yesterday that they will go back and look at the compensation figures as to what they’re actually offering. But we don’t consider that it’s appropriate.

63. Now at the end of Phase One, Natural England as a result of detailed workshops that they were asked to conduct with industry experts, they conducted a series of workshops and they published a report, which I think you’re aware of, where they recommended a planting ratio of 30:1 for irreplaceable habitat lost. This was obviously rejected at the House of Lords but that report has never been withdrawn and that report has never been amended. So it still is a published report and it is the opinion of Natural England. We accept it’s a bold request. But we think that an exceptional project should provide exceptional compensation.

64. THE CHAIR: Okay, that’s fine. I think we got the point. Any questions before we go to HS2?

65. MR WHITFIELD: I was just going to ask what ratio are you proposing?

66. MS RYAN: We’d like 30:1. We agree with Natural England.

67. MR MARTIN: Thirty-to-one?
68. MS RYAN: Yes.

69. THE CHAIR: Sandy?

70. MR MARTIN: Do you know, or will I ask Mr Mould, how many hectares of ancient woodland are actually being lost?

71. MS RYAN: Yes 10.2 hectares on Phase 2A.

72. MR MARTIN: So you’re looking for 300 hectares of woodland replacement?

73. MS RYAN: What we’re looking for is for those 10.2 hectares not to be removed and we wouldn’t be asking for huge amounts of compensation.

74. MR MARTIN: Yes, but I mean some of those 10.2 are definitely going to be lost as we have decided not to go with having a single tunnel. So how much of the 10.2 might…?

75. MS RYAN: Six hectares go with the tunnel.

76. MR MARTIN: Six hectares are definitely going?

77. MS RYAN: Yes, with the tunnel.

78. MR MARTIN: And the other four hectares you believe could possibly be saved?

79. MS RYAN: There could be tweaks. There hasn’t been any tweaks. You’re in a situation where Phase 2A is actually more damaging per kilometre to ancient woodland than Phase One, which is of real concern; it should be getting better.

80. MR MARTIN: Yes, I was just looking for actual numbers of hectares.

81. THE CHAIR: Okay. Mr Mould?

Response by Mr Mould

82. MR MOULD QC (DfT): Can I first of all deal with the losses to temporary works? First of all I can show you the location of the two trees that were mentioned. If we go to P1065(12)? The black poplar is located at the yellow dot which is being pointed out to you now just by that work site. If we go to P1065(22)? The ash tree is
located at the temporary roundabout that you see on the top right hand corner of your screen. If we go to P1090(5) there’s a convenient summary of the position at this stage in the design of the project in relation to losses of trees to construction. It’s section 9 on the page. What that indicates is that at this stage necessarily a precautionary approach has to be adopted. In other words, one has to acknowledge the risk of some limited losses to both permanent works but also to temporary works. But equally, the code of construction practice imposes a strict requirement on contractors to take all reasonably available steps to avoid or to limit damage to existing trees during construction. That’s now reinforced by the assurance that you see at the bottom of the page there which has been given to the Woodland Trust.

83. The project’s ambition, there’d be no doubt about it, the project’s ambition is to avoid any loss of veteran trees to construction works only. But at this stage I cannot rule that out. What I can say is, consistent with that assurance and with the code of construction practice, that every reasonable step will be taken in order to seek to achieve that. You know that what we have been able to do –

84. THE CHAIR: Is that reasonable endeavours?

85. MR MOULD QC (DfT): Reasonable endeavours, yes. Yes.

86. THE CHAIR: Okay.

87. MR MOULD QC (DfT): And what you do know is we have been able to reduce the loss, even on our current conservative approach to planning, we’ve been able to reduce the risk from nine to eight because we have been able to assure you that we will save Noddy’s Oak. So there has been some, albeit modest, progress in the right direction in relation to that. I can’t say any more than that about that particular issue.

88. THE CHAIR: Sandy’s got a question before we continue, Mr Mould.

89. MR MARTIN: Yes, I mean clearly the boundaries of the compounds in each of these cases is indicative rather than actually the actual boundary. I mean certainly on 1065(12), it’s just a –

90. MR MOULD QC (DfT): It’s illustrative.
91. MR MARTIN: Yes. Quite. I mean it’s not – you haven’t drawn it in great detail. Given that the tree is right on the edge of it I am sure that you would be able to design the depot without losing that tree. Is there any good reason why you can’t make a pretty firm commitment not to lose that tree now?

92. MR MOULD QC (DfT): The reason is the one that I’ve given. I’m of course very happy to take that one and see whether it is possible to go firmer on that particular, that’s the poplar I think that was raised. I’ll ask that that be looked at and I’ll see whether we can do a Noddy’s Oak on that one. Just to give you two further points of reassurance without outstaying my welcome on this point, first of all, in relation to work sites, those are subject to regulation by the local planning authority under schedule 17 of the Bill. One of the things that local planning authorities are entitled to take account of in fulfilling their regulatory functions is the impact on nature conservation. So they will be looking at the detailed arrangements for those work sites to make sure we’ve done all that we reasonably can in order to try and avoid losses to trees.

93. The other is experience. As I think you know I was involved in the promotion of the Crossrail Bill. During the production of the promotion of the Crossrail Bill there was a real concern it would be necessary to fell some of the trees in Hanover Square in the West End for the purposes of constructing the Bond Street station, which was obviously a source of great concern to people. Those of you who know that square will know how charming that square is. In fact, as you also know if you’ve visited Hanover Square and walked through over recent years, it’s been possible to avoid any tree loss in Hanover Square. So these commitments given at this stage, experience suggests that there’s a pretty reasonable chance that they will be fulfilled in practice. So that’s what I want to say and I’ll take away the point that you raise with me.

94. MR WHITFIELD: Sorry, can I just add to that? Not the specific poplar tree but all of the veteran trees identified under temporary impact lie right at the extremes of the Bill area.

95. MR MOULD QC (DfT): They do, they do.

96. MR WHITFIELD: So it wouldn’t seem a massive task to be able to give a slightly stronger worded undertaking at this stage given their location within it, or, if there is a problem, come back and say, ‘There is a problem with this one because…’
97. MR MOULD QC (DfT): If that’s what you would like us to do I’m very happy to do so.

98. THE CHAIR: Yes.

99. MR MOULD QC (DfT): But I just want to emphasise, if I may, the reason why the approach that we’ve taken with assessing the environmental impact produces these potential consequences is to ensure transparency. So that people can see what the worst case scenario could be. It’s designed to assist.

100. THE CHAIR: Perhaps, Mr Mould, it would be convenient when AP2 comes out to make a statement on progress at that juncture so that the Committee feel they have a better understanding. It might be you’re in the same position. It might be total progress, perfection, as it were, or partial.

101. MR MOULD QC (DfT): I’m very happy to do that.

102. THE CHAIR: Brilliant. Let’s move on to another issue. Thank you.

103. MR MOULD QC (DfT): Can I come to the replanting ratio? Can we just put up P1063(5)? This just summarises the approach to design in this respect. We haven’t used a ratio approach to calculate compensation. The report that Ms Ryan referred to from Natural England actually acknowledges there is ‘little evidential basis to justify a specific ratio’ and you’ve seen the figure that would result from that has already been mentioned in the course of the evidence. If we go to the next slide, you’ll see what the response of the second House Select Committee was on this issue when it was argued much more vigorously before them in relation to Phase One. They went as far as to say that, although the change was said to be evidence based, the report, that is the Natural England report, seems to ‘have plucked this figure out of the air’. So it’s not a very – nothing’s changed since then. There’s no better evidence now. So I would suggest that one would be circumspect about that sort of approach.

104. THE CHAIR: Sandy.

105. MR MARTIN: Although I can understand why the House of Lords would not want to impose that figure on you as it might have stood in the way of being able to produce a workable plan for HS2, is it not the case that you will, after the culmination of
this project, have various small parcels of agricultural land on your hands, some of which will not be of any great economic value to anyone because they’re too small or too severed or in awkward places? Certainly so far we have come across several places where you have not got planned tree planting but where, under the circumstances, it might very well be sensible to plant trees in preference to some of the other areas where you have got tree planting. Might that not be ramped up a bit to increase the proportion?

106. MR MOULD QC (DfT): That is certainly an option in relation to lands of that kind. Of course that would need to be balanced with some of the other potential uses of that land that you know about, because that land is also a potential resource to reduce the amount of ecological mitigation that farmers along the route have to receive. So there’s a careful balance to be struck but I wouldn’t rule it out. Perhaps I could just put up P1090(6)? Because I’ve emphasised the reason why we don’t want to be bound to a 30:1 ratio, or indeed any particular ratio. But let’s turn to the positive because as you can see under the heading ‘Reporting Ancient Woodland Compensation’ in the letter to the trust of yesterday, I think it was, there’s a recognition about the need for greater clarity in the provision of compensation for ancient woodland. About making sure that the trust and others that are interested in this are able to see the balance of the overall planting that is proposed that is intended to be in compensation for ancient woodland losses and that which is intended, for example, more for screening purposes and so forth. So I hope that that will enable a further positive engagement to take place.

107. THE CHAIR: Whilst I appreciate you don’t want to use the ratio as a target, as a matter of fact in terms of what you’re intending to do, what is the ratio?

108. MR MOULD QC (DfT): I don’t know. I don’t have a particular ratio. We haven’t planned to a ratio.

109. THE CHAIR: I understand that. But it is still just a calculation, isn’t it? Could Mr Miller or someone else do the maths? I’ve got the inputs.

110. MR MOULD QC (DfT): We will be able to do that once we’ve fulfilled the exercise that is actually set out under paragraph 11. Because what the trust have asked us for is if we can break down the balance of the 77 hectares that relates to ancient woodland compensation and that which is for other reasons. Once I’ve done that, then I
can give you the ratio that you ask for.

111. THE CHAIR: The maximum will be 1 in 7, is that right? It’s going to be less than 1 in 7?

112. MR MOULD QC (DfT): I really can’t give you an answer to that at this stage because I don’t have the break down. At the moment the 77 hectares is the overall area of planting that is proposed under the Bill but that is not broken down as between that which is intended to be in compensation for ancient woodland loss.

113. THE CHAIR: I’m just going to come to Woodland Trust to see if they can –

114. MS RYAN: If that’s okay, the figure of 77.1 that was put forward as compensation planning for ancient woodland, that came out – at the end of Phase One we had asked for these tables and High Speed Two had committed to doing this. So when that figure was initially put out we were told that that was the compensation planting for ancient woodland. That’s how it reads in the executive summary of the ancient woodland strategy. When you read the detail of the ancient woodland strategy it actually includes undisclosed amounts of planting for the replacement of secondary woodland, which was the issue that we had. We said that figure was very misleading because it included figures that weren’t for the compensation of ancient woodland. That’s what was supposed to be in that document and that’s what had been promised to us. That’s why we raised it as an issue and, as I say, yesterday we were told that High Speed Two will now relook at these figures. So based on the figures that they’ve provided, and taking into account that some of this is for secondary woodland planting, which it shouldn’t be because it’s clouding the issue, it’s a ratio of less than 7:1.

115. MR WIGGIN: Don’t you think that given the misery that this is causing all the landowners along the route who haven’t got woodland that’s being removed that actually you are – not you as the Woodland Trust but you as a British person – getting a lot more trees than you’re losing? If we insist on them coming from within the United Kingdom we all as citizens are beneficiaries of this extra woodland. And therefore to use terms like ‘we’ve been promised this’ does sound to me perhaps more aggressive than you meant.

116. MS RYAN: No, I’m sorry Mr Wiggin if you thought that was coming across.
What I’m saying is that at the end of Phase One, High Speed Two were required by the House of Lords to provide us with a clear breakdown of how much ancient woodland was being lost in a table and how much compensation was being provided for that ancient woodland. That’s what we were promised and that’s not what’s happened.

117. THE CHAIR: Right, I think we’ve got as much clarity we’re going to get at this juncture. Any other issues? Sorry, Sandy wants to come in first.

118. MR MARTIN: I just did want to say before we move on from this that I would have found it very helpful to see a very brief and sensible and straightforward table showing exactly how many hectares of planting HS2 are currently proposing to do including all the mitigation works all the screening and all the rest of it, every hectare of tree planting; then which proportion of that they believed was to compensate for ancient woodland would have been very helpful. I’m sure it should be fairly straightforward to prepare that.

119. MR MOULD QC (DfT): Well that’s exactly what that page in front of you is designed to do.

120. MR MARTIN: It’s telling us that you will do it. Yes. When will you do it by?

121. MR MOULD QC (DfT): I’m sorry it’s not available today but we will make it available to you when we make it available to the Woodland Trust, which is what that is seeking to achieve.

122. THE CHAIR: I’m not pressing for it within 24 hours but can you give me a backstop? At the moment, in your words, if you gave it to us in four years that ticks the box. Before AP2 is out?

123. MR MOULD QC (DfT): Oh, definitely. Absolutely.

124. THE CHAIR: Thank you very much, Mr Mould. Can we move on to the other issues to be covered?

125. MR MOULD QC (DfT): I think then I need to come to translocation of soils and the risks of contamination from soils which are infected by ash dieback disease. In fact, one of the officials in HS2 who specialises in ecology wrote to Ms Ryan on 6 July on
this. I don’t have it on the screen I’m afraid but the gist of it was that we are working closely with the Forestry Commission. Discussions continue to see if we can safely engage in translocation, which in principle is a good thing, without risking the spread of ash dieback disease. The upshot is that the Forestry Commission, as I understand it, does consider that there may be a way of enabling translocation to take place at least to a significant degree whilst properly controlling the risk of ash dieback. The Trust have this email, I’m proposing to keep the trust informed as those discussions continue so that they can see the direction of travel in relation to that, our discussions with the Forestry Commission. I will also keep the Committee informed so that you are able to see how matters are going in that respect. If it’s convenient, if there’s a final position with the trust on a protocol for example, as to how far we can go in this without risking the spread of ash dieback disease I’ll get a final report on that.

126. MR WIGGIN: You’re making lots of promises to keep us informed but in fact this is one of the areas that we don’t need necessarily to be kept informed because if the Forestry Commission deem that it is illegal to do translocation then there’s nothing we can do about it.

127. MR MOULD QC (DfT): No.

128. MR WIGGIN: So actually what I think we would like to know today is what will your position be? Is that right; will the Forestry Commission have the casting vote on this?

129. MR MOULD QC (DfT): Oh, yes. Because, as you say, it would be in breach of regulation and therefore it would be something that the project would not be able to do.

130. MR WIGGIN: So whether we like it or not that’s that?

131. MR MOULD QC (DfT): And nor would the project wish to do it. I mean the project does not want to be the author of the spread of ash dieback.

132. MR WIGGIN: Tell us how you get on.

133. MR MOULD QC (DfT): I’ll do that. Can I just come back briefly to the question of the provenance of planting stock, P1090(3)? I appreciate the Committee’s instinctive reaction to that point. The assurance that we have given in relation to that is at 6, it’s
italicised. You can see that the ambition, the aim, is that we should source from within UK stocks both in terms of trees and in terms of seed stock. But the allowance for provenance from that 0-5 degrees latitude south of the planting location is explained in III. Now I’m told that is consistent with Forestry Commission guidance. If you would find it helpful before you make a final decision on that to see the relevant Forestry Commission guidance just so that you are rooting your decision in the national –

134. THE CHAIR: That’s a good idea because I think we’ll disagree but let’s disagree having seen all the facts.

135. MR MOULD QC (DfT): Yes, well, I will make sure that we provide that to you. We will get that to you as soon as possible.

136. MR WIGGIN: Do you think that 0-5 degrees latitude south sounds more deceptive and actually it’s seed stock, which is not the same as plants? So one of the concerns is biosecurity. The other is genetics. And actually if we didn’t look so dodgy with that 0-5 degrees latitude and actually gave more detail on what you really want to source and why, it would be both calming for the Woodland Trust and make the Government and the Departments seem much more straightforward. It’s just the way it’s put.

137. MR MOULD QC (DfT): Well, it is an ambition of mine to try and minimise the amount of dodginess.

138. MR WIGGIN: Yes, that’s exactly what it looks like.

139. THE CHAIR: Just throwing it out there, could you perhaps eliminate rather than minimise dodginess? I think that might be an aspiration for the Secretary of State.

140. MR MOULD QC (DfT): I only say that because experience of life has taught me that sometimes minimisation… But anyway, no, elimination is obviously a highly desirable ambition but let me see if we can provide the trust and you by next Tuesday, shall I say? Can I see if I can provide the trust and you with an explanation?

141. THE CHAIR: It would be even more convenient to do it by close of business Monday.
142. MR MOULD QC (DfT): Close of business Monday? I will take that as our –

143. THE CHAIR: Thank you. Thank you very much.

144. MR MOULD QC (DfT): I think with that thought I’ve covered all the points that have been raised.

145. THE CHAIR: Thank you. I think we’ve covered all the points. The Committee will now meet in private. Thank you.

_Sitting suspended._

_On resuming –_

146. THE CHAIR: Thank you very much for petitioners, thank you for your flexibility in doing it slightly earlier. I do say to all petitioners, successful petitioners tell us what they want, why and if they can get it how we can do something else for them. So over to you, Mr Lewis.

**J&B Berrisford**

_Submissions by Mr Lewis_

147. MR LEWIS: Fine, thank you and good morning.

148. THE CHAIR: Morning.

149. MR LEWIS: Just to introduce myself, I’m Peter Lewis of Wright Marshall, Chester, chartered surveyors, an agent on behalf of J&B Berrisford, and my client Philip Berrisford is with me this morning. With your agreement, Chair, what I would like to do is just give a very brief and concise background to why we’re here and what our views are and perhaps ask Mr Berrisford to just highlight a couple of practical concerns. He’s a farmer on the ground and knows what’s what. That’s how I would like to go about it if that’s in order. We intend to be very concise as we said. We are very much relying – we have no evidence submitted in exhibits. We are relying on the promoter’s response documents, which you will all have had and be aware of. The petitioner accepts the broad route alignment and has no further comments to add to that. He’s been very co-operative throughout the process with regard to surveys.
150. His requests relate to trying to mitigate the impact upon his farming business by reducing land take. That’s our main concern here. The land required for the actual construction is generally accepted. We’ve got no views. What is required to build a track is required to build a track. It is, in our opinion, the excessive land take for balancing ponds which causes us concern.

151. MR WIGGIN: Mr Lewis, can I ask you? I notice that you’ve got two farms next to each other, both of which have balancing ponds being put in them.

152. MR LEWIS: Yes.

153. MR WIGGIN: Are you addressing both those petitions at once?

154. MR LEWIS: Yes, we are.

155. MR WIGGIN: You are, great. Thank you.

156. MR LEWIS: That’s one point I was just about to come on to.

157. MR WIGGIN: Sorry. I was just doing my homework.

158. MR LEWIS: No, that’s fine. Our petition included a number of generic and standard requests, which are recommended by the NFU. We don’t intend to go into those. I’m sure you’ve heard them numerous times and you don’t require me to go any further with those.

159. THE CHAIR: Thank you.

160. MR LEWIS: I’m sure you will recognise them from the petition as to which ones they are so I don’t think I need to point them out probably.

161. THE CHAIR: Yes.

162. MR LEWIS: Very, very briefly, the background to the farm. It is a dairy farm. The extent of lands owned is 90 acres of Chorlton Dairy Farm and 240 of Ellesmere Farm. There is other land rented but it’s on unsecure annual tenancies, which we can’t rely on being available to us every year. So the loss of land is quite important to us. Chorlton Dairy Farm in particular is affected, which whilst it is two farms as you say, Chorlton Dairy Farm is run as a heifer rearing unit, doing all the replacements for the
dairy farm. Mr Berrisford produces what we call A2 milk, if I may request perhaps you could just explain that and the implications on heifer rearing, which is relevant we believe.

163. MR WIGGIN: I’m going to listen to this.

164. THE CHAIR: He’s a dairy farmer so we’re okay.

165. MR WIGGIN: I’m not. I’m a beef farmer, but you’re welcome to explain it to my brethren.

166. MR BERRISFORD: Yes, A2 is DNA tested for beta-casein for people perceived to have milk intolerance. In actual fact it’s a bit of a misnomer because the actual beta-casein in the protein of the milk is the problem. All our cows are DNA tested and bred for A2 milk.

167. MR WIGGIN: That’s lactose intolerance.

168. MR BERRISFORD: That is why specifically we need our own rearing unit.

169. MR LEWIS: The loss of this to heifer rearing unit is quite significant. We have a number of general requests, which I will keep brief, which causes us concern. One of the reasons we’re here is that we have a feeling that HS2 basically are not listening to us. We’ve not had opportunities, or if we had opportunities we just feel we’re not being listened to. Just examples of that is the promoter’s response, I have actually got it on page 2 of the promoter’s response headed ‘background’ and also page 21, paragraph 1. Very simply they refer to Chorlton Dairy Farmhouse, well that’s nothing to do with us. Nothing to do with us. We don’t own it. We don’t live there. We’ve explained, we sat down, we met with our agricultural consultants. We met with representatives of HS2. We’ve talked about what we do and how we do it and still mistakes like that come through which concerns us. I’ll go onto assurances later but it is those kind of mistakes which undermined our confidence in assurances which are given. I say, another example, promoter’s exhibit HOC00151006, which is a cross-section plan. Again shows Chorlton Dairy Farmhouse as being the petitioner’s property. It’s not. We’re not making an issue as regards anything other than it shows a lack of getting to grips with who we are and what we are. The same drawing it does not show the extent of farm
buildings on Chorlton Dairy Farm, which are more relevant and the impact of it all than the farmhouse which is out of our ownership.

170. THE CHAIR: Can we ask HS2 to put up a map? Is that helpful, Sheryll?

171. MRS MURRAY: Yes. The gentleman’s referring to a drawing.

172. THE CHAIR: I misunderstood. Can we have that drawing up so we can all see it? Is there a reference at the bottom of it?

173. MR LEWIS: Yes.

174. THE CHAIR: Thank you, Sheryll.

175. MRS MURRAY: Thank you. Thank you very much.

176. MR LEWIS: So it’s got petitioner’s property as the farmhouse there, as Chorlton Dairy Farmhouse that’s not our property. It’s these small things that we worry about in what is –

177. MR WIGGIN: If you go to 934, where is that house? P934. It’s quite a good map. So which bit have they got muddled up? And that’s the one without the dairy farm on it. If you prefer, go to the one with it.

178. MR LEWIS: The map which has Chorlton Dairy Farm on would be the better one.

179. MR WIGGIN: 932?

180. MR MOULD QC (DfT): Would you mind if I suggest 926? Because it shows the location of the cross section.


182. MR LEWIS: The farm house, you explain better than I, Philip, the farm house on that plan is –

183. MR BERRISFORD: Yes, is somewhere by where that 1B is, isn’t it?

184. MR LEWIS: Yes, by 1B is the farm house, going north, and then the buildings
are going south, that’s the actual extent of the buildings that I’ve got on the drawing there. So they are extensive rearing facilities. So the cross-section doesn’t show them at all.

185. MR LEWIS: We fully accept when it comes to title and legalities, it will be not included as ours, but it’s indicative of what worries us slightly.

186. THE CHAIR: Okay. What we’ll do is we’ll ask HS2 to look at all the documentation, taken on board all the comments you’ve made today, bottom out any factual inaccuracies and reissue all the documentation to you. So let’s move now to what you want from us. We note your concerns; I’m not belittling them, but let’s focus on what we can do for you today.

187. MR LEWIS: Yes, if I may just go back on that, again, the promoter’s response document, again, and I won’t –

188. THE CHAIR: Sorry, I did ask you not to go back; they’re going to look through the documents, feed into them any other areas. I really do want to focus on what we can help you with today.

189. MR LEWIS: Yes. We’ve made our point that we feel we haven’t been listened to.

190. THE CHAIR: Yes, yes.

191. MR LEWIS: Fine, that’s fine. The main thing we want to do is to mitigate the loss of land take; that is the crux of it. It is relevant to us and it’s critical to us, to the business, that we very, very simply, we would request, and I’m talking for both petitions now, for both farms, ideally the removal of the balancing ponds to less valuable land. The Chorlton Dairy Farm is grade 2 land. We’re trying to avoid the loss of grade 2 land. It is grade 2 land, and the balancing pond at Chorlton Dairy Farm severs the field for a start, and the particular concern of Mr Berrisford is its location joining the extensive farm buildings and the potential for any pollution arising from there. And I think if Mr Berrisford, if you’d like to comment on that?

192. MR BERRISFORD: Yes. If I could just interject on that; I’ve got the building plans here. The distance from where the silage pits are, obviously, you understand
effluent contamination, and a very big slurry store, it’s not a long way from that balancing pond and there’s been no work done at all to assess the risk on that. So, what we’re talking of is if we could move that pond across further to the west.

193. MR WIGGIN: There are a lot of balancing ponds all in a row.

194. MR BERRISFORD: Yes, the other thing I was going to say, we feel we’ve got a disproportionate amount of ponds on our acreage. If you look across the line, I can’t find anywhere else where there is the same proportion per metre of land.

195. MR WIGGIN: Perhaps we’ll find out from HS2 why there are quite so many. Mr Miller.

196. THE CHAIR: Have you got a specific suggestion on where the ponds should move, or just generally westerly?

197. MR BERRISFORD: No, if you would be able to look at one plan that we’ve fetch, would that be possible.

198. MR LEWIS: We have prepared – well, it’s not been introduced as evidence, we can do it, but we can –

199. THE CHAIR: Can you perhaps talk us through on the map and show us? Sheryll’s got a question.

200. MRS MURRAY: Maybe they could show us on the map using the mouse?

201. THE CHAIR: Show us on the map, sorry; don’t pass it round, please. I want everyone to see the same thing on the screen; I don’t want a separate document being passed around.

202. MRS MURRAY: If you use the mouse, you’ll see the pointer. If you show us –

203. MR BERRISFORD: Yes, if you see the main balancing pond there, our area of concern is that distance of travel there from the silage pits, the slurry store. And I note in HS2 notes, they are saying in there, correct me if I’m wrong from the QC, they are saying in their notes that they’re covering a 100-year eventuality of a flood etc.

204. Now my counterargument is, we’ve got the same problem there with the effluent
and the slurry. We might have a one in 100 year problem. So I propose that that pond there would be more practical, if it was put into the corner of this field here. It then gives us a field that we can actually work in that isn’t being split and severed with corners that we can’t farm. And it mitigates the distance from a perceived risk of contamination in the one in 100 years.

205. THE CHAIR: That is really helpful, and very clear, thank you very much.

206. MR LEWIS: I’m happy to leave these for future reference with HS2 and yourselves, but we have drawn it on.

207. THE CHAIR: I think we’ve got it. We’ve got it now, but we’re not circulating material now.

208. MR LEWIS: No, I accept that.

209. THE CHAIR: So let’s move on now.

210. MR LEWIS: So largely, it relates to mitigating land loss by removal or relocation, or reduction in size of the balancing ponds. So if it’s not feasible to remove them, to relocate and reduce in size.

211. The other major concern we have which has been highlighted is access. The access to Chorlton Dairy Farm will be lost, there is provision for an access road, we accept that, coming from the north in. What we are requesting in relation to the access road is a) that it is provided, obviously, and then an access point is provided into Chorlton Dairy Farm, but it’s basically capacity. It needs to be a minimum of 40 tonnes. We have full sized vehicles going along there, passing bays, capable of –

212. THE CHAIR: Can you just highlight that with the cursor on this map? That would be helpful.

213. MR LEWIS: Yes, it’s the road where the cursor is now. And the travelling in a northerly direction, beyond our land, but that will be the access coming in.

214. MR WIGGIN: Where is it at the moment?

215. MR LEWIS: It comes underneath the railway from Chorlton Lane to the east.
216. MR WIGGIN: You’ve got to have a bulk tanker for the milk coming in every day.

217. MR LEWIS: There is a bulk tank on this, but it’s fertiliser, it’s slurry tankers, it’s tractors and trailers. They milk at Ellesmere Dairy Farm, the other farm. That’s not affected by the access provisions.

218. MR WIGGIN: Okay.

219. MR LEWIS: So we’ve had no specific assurances to that, other than general assurances. We had, yesterday, a series of assurances which came through circa one or two o’clock yesterday, I was already on a train here. We can’t rely on them, not to speak today, because we’ve not had opportunity to consider them, and we have concerns, because of the way that we haven’t been engaged, or we feel we haven’t been engaged, that the assurances need to be more specific. That is what we’re lacking, is not being dealt with specifics, saying, ‘Yes, the road will be 40 tonnes; it will be…’

220. THE CHAIR: Well shall we hear – shall we move straight to HS2 now, hear from them, and I’ll give you a bit more leniency on summation, if there are any additional points you want to make. But it strikes me that we might get a bit more clarity from hearing from HS2, and the coming back to you. Is that okay, sir?

221. MR LEWIS: Yes, yes.

222. THE CHAIR: Excellent. Mr Mould?

Response by Mr Mould

223. MR MOULD QC (DfT): The suggestion in relation to moving the balancing pond – if we can just put the cursor back over; that’s the balancing pond that is the source of concern. The suggestion is, and a very helpful plan that Mr Lewis has just shown me informally, is that that pond should be relocated into this north eastern corner of the holding. I’m going to have our engineers review that and to report back to you, and to Mr Lewis by close of play on Monday in relation to that.

224. MR WIGGIN: Can you take it a step further? You’ve already put a new pond in there, next to it, and as I understand it, balancing ponds are to get the run off from the
railway, to stop it creating floods and to balance the flow of water, I think that’s right?

225. MR MOULD QC (DfT): Yes.

226. MR WIGGIN: So you’ve got four in a row there.

227. MR MOULD QC (DfT): Yes. Can I just explain –

228. MR WIGGIN: One big one might be a big easier.

229. MR MOULD QC (DfT): Well, the balancing pond to the right hand side of this plan –

230. MR BERRISFORD: That is on our property as well, the one –

231. MR MOULD QC (DfT): Oh I know, yes, I know. That’s on the Ellesmere Dairy Farm, isn’t it?

232. MR BERRISFORD: That’s correct.

233. MR MOULD QC (DfT): That balancing pond and the one on which we’ve been focusing this morning, those balancing ponds are both included in the design at the present time in order to provide drainage for the HS2 railway as it passes up towards Crewe; that is to say, the railway that is the two lines that are shown on the plan now.

234. The balancing pond that I’m pointing out now, and the northerly one on this, those are balancing ponds that are provided in order to drain the West Coast Main Line which we are doing significant works to, as you know, in order to get Phase 2A onto the West Coast Main Line at this location, for the purposes of Phase 2A to operate. It is necessary at this stage in the design to provide separation between the drainage arrangements for HS2 and the drainage arrangements for the West Coast Main Line.

235. MRS MURRAY: Why?

236. MR MOULD QC (DfT): Why? Because the two railways will function as separate undertakings.

237. MR WIGGIN: No, come along, not the wrong sort of water. We’ve got to have Mr Smart to explain that one because there’s no way you can –
238. MR MOULD QC (DfT): Well, Mr Smart will tell you what I have just told you.

239. THE CHAIR: Mr Berrisford, do you mind just stepping down – could we have the expert because it does seem –

240. MR BERRISFORD: Can I just tell you now? As that is there now, and I’ll use the cursor, that there, where the line is going, is wetland. Where you’re taking land from me for the line, which I’ve no problem with, that’s as it is, is some of the driest land in Cheshire. In fact we’re suffering a drought now; that is absolutely burnt up.

241. THE CHAIR: Yes.

242. MR BERRISFORD: There is nothing there now as well, for that existing line. So, I cannot accept that they need all of these ponds for different lines.

243. THE CHAIR: Okay.

244. MR WIGGIN: Nor can we, so –

245. THE CHAIR: Let’s pause and let’s do this properly. Mr Mould, we are currently unconvinced. Would you like to speak more to this issue, or would you like to call Mr Miller. Or would you like to move on? All three I’m happy with.

246. MR MOULD QC (DfT): Well I would like you to have an explanation from an expert. Actually, I think it would be, with due respect to Mr Miller, this is ultimately an engineering point. As you can see, Mr Smart is not here this morning. I apologise for that, but he is elsewhere.

247. MR WIGGIN: Indeed.

248. MR MOULD QC (DfT): What I propose to do, because the petitioner has been very clear that they have a specific request in relation to the balancing pond that I’m pointing out to you now, as I’ve said, I will get an answer to you, and to them on that by Monday evening. I will also ask that we produce a note to you within the same timescale which is Mr Smart’s –

249. THE CHAIR: Carry on.

250. MR MOULD QC (DfT): Which Mr Smart will approve and which will then
enable you to see the beef of the explanation I’ve summarised.

251. THE CHAIR: Okay. Bill Wiggin and then Sheryll.

252. MR WIGGIN: When you’re going through that process, given that these ponds, and I suspect the reason will be, ‘Well, the run offs may come at different times’, but the depth of the pond will determine how much water can be stored; therefore, if you could look at rationalising this, so that a bigger or deeper pond can cope with both, I think that would help everybody.

253. MR MOULD QC (DfT): The project fully intends to rationalise, as part of the detailed design, and indeed, I was told this morning that the process of rationalisation is already underway. In a sense, reviewing the specific proposal that the petitioner has put forward now will be, if you like, a very early part of that process, and we may be able to give a fairly definitive answer to you and the petitioner by Monday evening.

254. Can I just say, my understanding is, again, I appreciate I’m reporting a technical point, my understanding is, it’s not simply the question of having sufficient capacity, quantitative capacity, it’s also about the quality of the expected run off from the two railway lines. Because the West Coast Main Line is a multi-purpose railway which carries a lot of freight, it’s necessary – the discharge arrangements for those ponds are likely to be significantly different. But I’m not going to provoke you by going further into that now –

255. MR WIGGIN: So the water, it was – I was right.

256. THE CHAIR: You’re right to not – and I think the best way to do that is for us to move on, as quickly as possible.

257. MR MOULD QC (DfT): Yes.

258. THE CHAIR: Sheryll, have you got any more questions?

259. MRS MURRAY: Just to say I would like to see as well, because very clearly, if you’re discharging a poorer quality water, if you’ve got a better quality water going into a bigger, deeper pond, then you can still use the same discharge method as you would for the poorer quality pond, and I would like to see an opportunity given to this
petitioner to actually utilise these two into one, so that he’s got the land that he needs to farm.

260. MR MOULD QC (DfT): Yes. I see the force of your concern about that and I’m not seeking to push back on it. I’ve indicated, I think, that the process of rationalisation, I think was the word that was used a minute ago, is one – but –

261. THE CHAIR: Yes, I think we’ve heard you, we’ve got a plan, we agree with that plan. Let’s move on.

262. MR MOULD QC (DfT): I think the other point was access and we can see that, here, because of the major engineering works that are required at this point, it’s not realistic to seek to maintain Chorlton Lane at this point, it will be stopped up. Now, that means that an alternative access, for all purposes, clearly has to be provided to this dairy farm undertaking. The proposal is that that access will be provided along this track which is being constructed and will be in existence during construction, and finalised at operation, to enable HS2 to service whatever drainage arrangements exist at that point. An assurance has been given; I fully acknowledge it was sent in a letter yesterday, which the petitioner hasn’t had an opportunity to consider fully.

263. Can I just show it to you? It’s a P932(3). It’s under the heading of, ‘Access. To provide the petitioner with a segregated access track prior to stopping up the railway underpass’.

264. THE CHAIR: I can’t see 40 tonnes written anywhere there?

265. MRS MURRAY: No.

266. MR MOULD QC (DfT): I’m sorry?

267. THE CHAIR: Forty tonnes. That was the issue, wasn’t it?

268. MR LEWIS: A minimum of.

269. MR MOULD QC (DfT): No, I appreciate that’s – well, that’s –

270. THE CHAIR: Sorry, Mr Mould – just to tell you, it’s Mr Mould to speak. I wasn’t looking for interventions from anywhere else.
271. MR MOULD QC (DfT): It doesn’t address that, and plainly I acknowledge that had the petitioner seen it earlier, that’s a point they might have raised and we might have taken – let me take that point away. The straightforward point is, there is an assurance to provide an alternative point of access which must be appropriate for the needs of the farm, I accept that unreservedly, and it must be provided in a form that enables the farm to maintain continuous access to the undertaking, at all times, and for all its reasonable purposes, once Chorlton Lane, as you’ve seen, has been stopped up.

272. THE CHAIR: So if it’s reasonable purpose, to be able to have a 40-tonne vehicle going down, HS2 will make reasonable endeavours to make sure that happens?

273. MR MOULD QC (DfT): Yes and I’m going to ask that the assurance is reviewed in the light of the very clear practical points that have been made by Mr Lewis about the quality of that access, and I will ask that we reissue the assurance in a form that takes on board the points that he’s made.

274. THE CHAIR: Just to make it very simple, because I’m concerned that I’m getting comfortable with some of this legal terminology, but petitioners won’t, can we just simply say in that, ‘The track will be suitable for 40-tonne vehicles’?


277. MR WIGGIN: Whatever the legal limit is.

278. MR MOULD QC (DfT): I can see no difficulty with saying that, but again, for the same reason that you don’t want to treat me as authoritatively in relation to the balancing ponds, I’m sure you’d rather I just squared that off with the project. I’m not saying no, I’m saying I expect to be able to say yes, but I just need to make sure that we can –

279. MR WIGGIN: Can we also make sure that the heights are right, because again, we’ve come across this problem with other petitioners, that the height has to be 4.6 metres, I believe. And it’s only a minor detail but it’s something that normally gets forgotten, if you haven’t?
280. MR MOULD QC (DfT): I don’t think –

281. THE CHAIR: Did you say width?

282. MR WIGGIN: No, it’s not just the width; it’s the heights as well, because there’s an underpass going on.

283. MR MOULD QC (DfT): Well, if I can go to P935, I think I’m right in saying Mr Wiggin, that actually, the proposed access doesn’t go underneath the railway but goes over the top of it.

284. MR WIGGIN: No, but the replacement will later on – you’re stopping up one.

285. MR MOULD QC (DfT): We’re stopping up one which does indeed go under, but if you follow the line – if I can just take the cursor –

286. MR WIGGIN: No, no, I accept that the track doesn’t have an underpass –

287. MR MOULD QC (DfT): And then it comes to this point here, and it joins the Newcastle Road, which is going to be diverted over the railway line; do you see?

288. MR WIGGIN: Yes.

289. MR MOULD QC (DfT): So there shouldn’t be a height issue here.

290. MR WIGGIN: No, height and width, though, is all part of the weight restrictions and as long as you’re –

291. MR MOULD (DfT): Okay, we’ll check that out.

292. MR WIGGIN: That's fine.

293. MR MOULD QC (DfT): And just to give you just a little bit more reassurance, if I may, this point was – the simple position is one that is acknowledged on slide P930. That’s the project’s stated objective.

294. MR WIGGIN: Would it be unstopped afterwards?

295. MR MOULD QC (DfT): When Chorlton Lane is stopped up, which is a permanent stopping up, access to Chorlton Dairy Farm will be maintained from the
Newcastle Road, via the new access track to the west –

296. MR WIGGIN: And that will be maintained constantly by HS2 –

297. MR MOULD QC (DfT): Yes.

298. MR WIGGIN: Not by the petitioner.

299. MR MOULD QC (DfT): Oh, no, this would be a –

300. MR WIGGIN: Proper road?

301. MR MOULD QC (DfT): Yes.

302. MR WIGGIN: Lovely, thank you.

303. MR MOULD QC (DfT): So, subject to just confirming those points that you put to me, which I will ask that we do.

304. MR WIGGIN: There’s just one more thing which Mr Miller is normally very nimble on the amount of planting.

305. MR MOULD QC (DfT): Yes.

306. MR WIGGIN: But again, it’s gone a bit mad and again, we know that you have some degree of flexibility depending land you own nearby, given that some farms will be purchased and we will rebalance the planting, but I think the petitioner’s very clear that he would like to see less land take at every opportunity.

307. MR MOULD QC (DfT): On that letter that was sent yesterday, P932(1), we have offered directly to that petitioner, the assurance on detailed design, which as you know from the debate we had with the National Farmers’ Union, is designed to involve the petitioner in the detailed design of the environmental works, so they can tell us how best we can meet their requirements, whilst we plan the detailed design of our works.

308. THE CHAIR: I think I’m comfortable with the way forward. Can we reserve the right to call Mr Smart on Tuesday, if we’re curious about the written evidence, just to bottom it?
309. **MR MOULD QC (DfT):** Yes.

310. **THE CHAIR:** And just on that on that more generally, there might be some remaining issues with the experts that might be handy for us to cover before the summer recess and before producing our report more generally?

311. **MR MOULD QC (DfT):** I’ll make sure that both Mr Smart and Mr Miller are here on Tuesday for that purpose.

312. **THE CHAIR:** That would be –

313. **MR MOULD QC (DfT):** Would you also find it helpful to have Mr Thornely-Taylor and Mr Smith here, or is it – are you thinking more of…?

314. **THE CHAIR:** I suspect not but perhaps through the clerk I’ll let you know. We’ll review the issues that are still current and if we’ve got any questions – my inclination is to be cautious. If we feel that there’s a possibility, we’ll ask you to have them here rather than have something hanging over to AP2; I don’t think that’s helpful to the Committee or to HS2, but we’ll come back to you, if, on a cautious basis, we want to see them.

315. **MR MOULD QC (DfT):** Yes. Forgive me, if there are any particular issues that you realise you would want to raise, if it were possible through the clerk, to give us an idea of what they are, then I can prime my team to be ready to answer those for you as well.

316. **THE CHAIR:** We will do that in as much as is possible.

317. **MR MOULD QC (DfT):** That’s very kind of you, thank you.

318. **THE CHAIR:** Thank you. Apologies Mr Lewis, a slight tangent from just your petition, but we’re coming to a conclusion of a certain phase, and I didn’t want to find that the evidence that we got from HS2, we wanted to probe and we were unable to do so. You don’t have to say anything more but if you want to, feel free to do so.

319. **MR LEWIS:** Again, I’m conscious of being concise; just a couple of points arising from that. One is we’re grateful and we accept the assurances that you’re looking at the balancing ponds and the access. We’re just like some engagement, and I
don’t know what format that is, by HS2 but people coming to see us and sit down with us and say, ‘Well, we’re thinking of doing this, we’re thinking of doing that, embedding that’. Can we be involved?

320. THE CHAIR: They would have heard that and I’d hope something will be in the letter in reference to that.

321. MR LEWIS: And I want to mitigate, as my final point, the impact on the farm. What we are very, very concerned about is whether the opportunity is here or not, I’m not sure, but we’ll raise it, is that the opportunity for any land swaps in relation to land which comes about there. It’s not a question of compensation, it’s the loss of land which is our greatest problem, and if there is surplus land acquired adjoining, whatever, if there is an opportunity with that – it may be outside the remit of this; I don’t know. Just common sense approach, really.

322. MR BERRISFORD: Could I…?

323. THE CHAIR: Sorry – Bill, do you have a question?

324. MR WIGGIN: No.

325. THE CHAIR: Exceptionally – I shouldn’t, but go ahead.

326. MR BERRISFORD: Could I just say, on a practical issue, we’ve had surveys for bats, newts, lizards, you name it. The one survey that’s not been done, and I keep going back to it on a practicality, is the effluent and the slurry store feasibility vis-à-vis how close it is to that balancing pond and that does, as a farmer – Bill Wiggin will know what I’m talking about – that does concern me.

327. MR WIGGIN: Yes, but in fairness to that, if the balancing pond isn’t there, then that problem goes away.

328. MR BERRISFORD: Yes.

329. MR WIGGIN: And we do know it’s the wrong sort of water, which I think is just too funny for words, but at the same time – well, it’s ridiculous – sorry –

330. THE CHAIR: Don’t rise to the occasion.
331. MR WIGGIN: I try not to bait Mr Mould. But if that pond isn’t there, then your flood risk completely changes.

332. MR BERRISFORD: I take that.

333. MR WIGGIN: And we’re hoping that it won’t be.

334. MR BERRISFORD: Yes. Thank you.

335. THE CHAIR: And if it is, HS2 would have heard your concerns. Fantastic. Thank you for petitioning; thank you for your flexibility. We reconvene this afternoon for another petitioner.